

sponsored risk-pooling options, investments, computer software, website design and ordinance codification.

8. Defendant Steven Haugaard (“Haugaard”) is sued in his official capacity as Speaker of the House of the South Dakota House of Representatives.

9. Upon information and belief, Haugaard is a resident of Minnehaha County, and primarily performs his duties as Speaker of the House at the state capitol in Pierre, Hughes County, South Dakota.

10. Taylor is a registered lobbyist with the South Dakota Secretary of State, has been continuously registered to lobby on behalf of the SD Municipal League from 1997-2019, and lobbies on behalf of the League. Taylor also lobbied from 1992-1994 also on behalf of the South Dakota Municipal League. Taylor also lobbies for one other association which is affiliated with the Municipal League.

11. The floor of the South Dakota House of Representatives (“House Floor”) is open to lobbyists as well as to the public during certain hours while the Legislature is in session.

12. Upon information and belief, since at least 1991, no particular individual or class of individuals has been prohibited from entering onto the House Floor during the hours it is open to the public and to lobbyists.

13. The League publishes a monthly magazine to its members called *South Dakota Municipalities*. Each month Taylor writes a column on items of interest to the members.

14. Among other things, this column has been used to advocate on certain issues important to members, such as referred issues and constitutional amendments, and to encourage political involvement.

15. Taylor authored a column in the *South Dakota Municipalities* magazine encouraging the members to vote in the June 2018 primary election. She asked members to consider voting for legislators willing to study the issues and not those who prejudge issues through a narrow predetermined standard.

16. Taylor’s column appeared in the May 2018 issue of the *South Dakota Municipalities* magazine.

17. On Monday, January 14, 2019, Haugaard called Taylor into his office. Haugaard asked Taylor to close the door and a conversation ensued about the column Taylor wrote for the South Dakota Municipalities Magazine, May 2018 issue. Haugaard had not previously discussed the column with Taylor.

18. Haugaard told Taylor that she had made the Legislature look like “a bunch of buffoons.” Haugaard stated that Taylor was allowed to privately think the thoughts expressed in the column, but that she could not publish them. Haugaard then asked Taylor to not enter the House Floor during the times it is open to the public until further notice. This conduct took place in Hughes County, South Dakota.

19. On January 16, 2019, Taylor had a letter delivered to Haugaard stating she disagreed with the premise of his action. In that letter, Taylor asked that by 5:00 p.m. on Wednesday, January 16, 2019, Haugaard provide her with the legal authority he used to ban Taylor from the House Floor. Taylor received no response.

20. On January 17, 2019 at 9:00 a.m., Taylor approached the Assistant Sergeant at Arms, Rollie Borth, and asked if Taylor could enter onto the House Floor. Mr. Borth told Taylor that “the Speaker” had instructed him not to let Taylor on the floor. Mr. Borth is a state employee and takes direction from Haugaard.

21. Mr. Borth then handed Taylor a page from a book, which upon information and belief is a section of Mason’s Manual of Legislative Procedure. This is the authority Haugaard relies upon for banning Taylor from the House Floor.

22. Taylor is unable to adequately represent the South Dakota Municipal League without being able to speak to legislators on the House Floor when it is open to the public. Taylor is also unable to advocate on other issues that are of personal interest to her.

23. A critical component of lobbying, whether for a client or on one’s own behalf, is being in the location where and when legislators and groups of legislators can be found. Being on the House Floor allows lobbyists and members of the public to speak with many legislators in one place at one time.

24. Most South Dakota legislators do not have offices, so the legislators’ desks on the House Floor is the place where most legislators can be found.

25. One important aspect of lobbying is circulating bill sponsor sheets and explaining to legislators the bill they are being asked to sponsor. Legislators sign the bill sponsor sheet in order to become a sponsor of a bill. This activity occurs almost exclusively on the floors of the House and Senate.

26. The deadline for getting bill draft requests with completed bill sponsor sheets to the Legislative Research Council is Monday, January 28, 2019.

27. By being barred from the House Floor, Taylor loses an opportunity to obtain sponsor signatures and communicate with legislators about the bills and related issues. As a result, Plaintiffs’ opinions and advocacy efforts are significantly limited.

28. South Dakota’s legislative session is 40 days in length, making ease of access all the more critical for lobbyists, organizations and members of the public.

29. The Speaker’s action banning Taylor from the House Floor greatly impedes Plaintiffs’ ability to contact legislators and advocate their viewpoints and concerns at a critical time in the legislative process.

CLAIM ONE
FIRST AMENDMENT/FIRST AMENDMENT RETALIATION

30. Plaintiffs herein incorporate all allegations contained in the paragraphs above.

31. Defendant acted under the color of state law in prohibiting Plaintiff Taylor from entering the House Floor.

32. Defendant deprived Plaintiffs of rights or privileges secured by the Constitution, namely, Plaintiffs' First Amendment right to free speech.

33. Defendant's action restricted Plaintiffs' expression because of its message, ideas, subject matter, or its content.

34. Defendant's conduct was not the least restrictive means to achieve a compelling governmental interest, and there is no compelling governmental interest at issue here.

35. In authoring her magazine column and publishing the column, Plaintiff was engaged in activity protected by the First Amendment, namely political speech.

36. Defendant took adverse action against Plaintiffs that would chill a person of ordinary firmness from continuing the activity.

37. The adverse action was motivated at least in part by Plaintiffs' protected activity.

38. Defendant's conduct otherwise violates the First Amendment as Plaintiffs have been singled out and treated differently than other lobbyists, organizations or members of the public based upon their advocacy and have been prevented from exercising their free speech rights in the political process.

RELIEF

WHEREFORE, Plaintiffs pray that the Court enter judgment in their favor as follows:

1. That this Court assume jurisdiction;
2. That this Court declare that banning Taylor from the House Floor violates Plaintiffs' First Amendment right to free speech;
3. Grant preliminary and permanent injunctive relief by ordering the Defendant to allow Taylor on the House Floor as otherwise allowed for lobbyists and members of the general public;
4. Grant Plaintiffs' reasonable attorneys' fees, litigation expenses and costs pursuant to 42 U.S.C. § 1988;

5. Grant the Plaintiffs any further relief which may in the discretion of the Court be necessary and proper to ensure Plaintiffs' First Amendment rights.

Dated: January 22, 2019.

GUNDERSON, PALMER, NELSON
& ASHMORE, LLP

By: /s/ David E. Lust

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Yvonne Taylor, and South Dakota Municipal League

(b) County of Residence of First Listed Plaintiff Hughes
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
David E. Lust, Gunderson, Palmer, Nelson & Ashmore, LLP
506 Sixth Street, PO Box 8045, Rapid City, SD 57709
(605) 342-1078

DEFENDANTS

Steven Haugaard, in his official capacity as Speaker of the House

County of Residence of First Listed Defendant Minnehaha
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)
Jason Ravnsborg, Attorney General of South Dakota
1302 E. Hwy 14, Suite 1
Pierre, SD 57501

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 USC Section 1983

Brief description of cause:

Defendant violated Plaintiffs' First Amendment right to free speech and to engage in the political process

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

01/22/2019

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE